

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

DARYL BURNETT, JR.,)
)
Petitioner,)
)
v.) Case No. 3:17-CV-596-JD-MGG
)
WARDEN,)
)
Respondent.)

OPINION AND ORDER

Daryl Burnett, Jr., a prisoner without a lawyer, filed a habeas corpus petition challenging his prison disciplinary hearing in ISP 17-03-213 where a Disciplinary Hearing Officer (DHO) at the Indiana State Prison found him guilty of possession of a deadly weapon in violation of A-106. ECF 1 at 1. As a result, Burnett was sanctioned with the loss of 90 days earned credit time. *Id.*

After Burnett filed his petition, the finding of guilt and sanctions were vacated. ECF 41-3. The Warden has filed a motion to dismiss because this case is now moot. ECF 41. Burnett did not file a response and the time for doing so has passed. *See* N.D. Ind. L. Cr. R. 47-2. Regardless, the court cannot overturn the disciplinary proceeding and restore his time because the Indiana Department of Correction has already vacated the proceeding and restored his time. That is to say, Burnett has already won and there is no case left for this court to decide. Accordingly, this case must be dismissed. *See Hadley v. Holmes*, 341 F.3d 661, 664 (7th Cir. 2003) (prisoner can challenge prison disciplinary determination in habeas proceeding only when it resulted in a sanction that

lengthened the duration of his confinement).

For these reasons, the motion (ECF 41) is GRANTED and the case is DISMISSED.

The clerk is DIRECTED to close this case.

SO ORDERED on February 5, 2018.

/s/ JON E. DEGUILIO
JUDGE
UNITED STATES DISTRICT COURT